

Part 4

Theft

76-6-401 Definitions.

For the purposes of this part:

- (1) "Property" means anything of value, including real estate, tangible and intangible personal property, captured or domestic animals and birds, written instruments or other writings representing or embodying rights concerning real or personal property, labor, services, or otherwise containing anything of value to the owner, commodities of a public utility nature such as telecommunications, gas, electricity, steam, or water, and trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by him.
- (2) "Obtain" means, in relation to property, to bring about a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; in relation to labor or services, to secure performance thereof; and in relation to a trade secret, to make any facsimile, replica, photograph, or other reproduction.
- (3) "Purpose to deprive" means to have the conscious object:
 - (a) To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or of the use and benefit thereof, would be lost; or
 - (b) To restore the property only upon payment of a reward or other compensation; or
 - (c) To dispose of the property under circumstances that make it unlikely that the owner will recover it.
- (4) "Obtain or exercise unauthorized control" means, but is not necessarily limited to, conduct heretofore defined or known as common-law larceny by trespassory taking, larceny by conversion, larceny by bailee, and embezzlement.
- (5) "Deception" occurs when a person intentionally:
 - (a) Creates or confirms by words or conduct an impression of law or fact that is false and that the actor does not believe to be true and that is likely to affect the judgment of another in the transaction; or
 - (b) Fails to correct a false impression of law or fact that the actor previously created or confirmed by words or conduct that is likely to affect the judgment of another and that the actor does not now believe to be true; or
 - (c) Prevents another from acquiring information likely to affect his judgment in the transaction; or
 - (d) Sells or otherwise transfers or encumbers property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid or is or is not a matter of official record; or
 - (e) Promises performance that is likely to affect the judgment of another in the transaction, which performance the actor does not intend to perform or knows will not be performed; provided, however, that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

Enacted by Chapter 196, 1973 General Session

76-6-402 Presumptions and defenses.

The following presumption shall be applicable to this part:

- (1) Possession of property recently stolen, when no satisfactory explanation of such possession is made, shall be deemed prima facie evidence that the person in possession stole the property.
- (2) It is no defense under this part that the actor has an interest in the property or service stolen if another person also has an interest that the actor is not entitled to infringe, provided an interest in property for purposes of this subsection shall not include a security interest for the repayment of a debt or obligation.
- (3) It is a defense under this part that the actor:
 - (a) Acted under an honest claim of right to the property or service involved; or
 - (b) Acted in the honest belief that he had the right to obtain or exercise control over the property or service as he did; or
 - (c) Obtained or exercised control over the property or service honestly believing that the owner, if present, would have consented.

Amended by Chapter 32, 1974 General Session

76-6-402.5 Defense regarding metal dealers.

It is a defense against a charge of theft under this part and a defense against a civil claim for conversion if any dealer as defined in Section 76-6-1402 has acted in compliance with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Amended by Chapter 187, 2013 General Session

76-6-403 Theft -- Evidence to support accusation.

Conduct denominated theft in this part constitutes a single offense embracing the separate offenses such as those heretofore known as larceny, larceny by trick, larceny by bailees, embezzlement, false pretense, extortion, blackmail, receiving stolen property. An accusation of theft may be supported by evidence that it was committed in any manner specified in Sections 76-6-404 through 76-6-410, subject to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief where the conduct of the defense would be prejudiced by lack of fair notice or by surprise.

Amended by Chapter 32, 1974 General Session

76-6-404 Theft -- Elements.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him thereof.

Enacted by Chapter 196, 1973 General Session

76-6-404.5 Wrongful appropriation -- Penalties.

- (1) A person commits wrongful appropriation if he obtains or exercises unauthorized control over the property of another, without the consent of the owner or legal custodian and with intent to temporarily appropriate, possess, or use the property or to temporarily deprive the owner or legal custodian of possession of the property.
- (2) The consent of the owner or legal custodian of the property to its control by the actor is not presumed or implied because of the owner's or legal custodian's consent on a previous occasion to the control of the property by any person.

- (3) Wrongful appropriation is punishable one degree lower than theft, as provided in Section 76-6-412, so that a violation which would have been:
 - (a) a second degree felony under Section 76-6-412 if it had been theft is a third degree felony if it is wrongful appropriation;
 - (b) a third degree felony under Section 76-6-412 if it had been theft is a class A misdemeanor if it is wrongful appropriation;
 - (c) a class A misdemeanor under Section 76-6-412 if it had been theft is a class B misdemeanor if it is wrongful appropriation; and
 - (d) a class B misdemeanor under Section 76-6-412 if it had been theft is a class C misdemeanor if it is wrongful appropriation.
- (4) Wrongful appropriation is a lesser included offense of the offense of theft under Section 76-6-404.

Amended by Chapter 48, 2001 General Session

76-6-404.7 Theft of motor vehicle fuel.

- (1) As used in this section, "motor vehicle fuel" means any combustible gas, liquid, matter, or substance that is used in an internal combustion engine for the generation of power.
- (2) A person is guilty of theft of motor vehicle fuel who:
 - (a) causes a motor vehicle to leave any premises where motor vehicle fuel is offered for retail sale when motor fuel has been dispensed into:
 - (i) the fuel tank of the motor vehicle; or
 - (ii) any other container that is then removed from the premises by means of the motor vehicle; and
 - (b) commits the act under Subsection (2)(a) with the intent to deprive the owner or operator of the premises of the motor fuel without making full payment for the fuel.
- (3) In addition to the penalties for theft under Section 76-6-412, the sentencing court may order the suspension of the driver license of a person convicted of theft of motor vehicle fuel. The suspension may not be for more than 90 days as provided in Section 53-3-220.

Enacted by Chapter 328, 2009 General Session

76-6-405 Theft by deception.

- (1) As used in this section, "puffing" means an exaggerated commendation of wares or worth in a communication addressed to an individual, group, or the public.
- (2)
 - (a) A person commits theft if the person obtains or exercises control over property of another person:
 - (i) by deception; and
 - (ii) with a purpose to deprive the other person of property.
 - (b) The deception described in Subsection (2)(a)(i) and the deprivation described in Subsection (2)(a)(ii) may occur at separate times.
- (3) Theft by deception does not occur when there is only:
 - (a) falsity as to matters having no pecuniary significance; or
 - (b) puffing by statements unlikely to deceive an ordinary person in the group addressed.

Amended by Chapter 156, 2012 General Session

76-6-406 Theft by extortion.

- (1) A person is guilty of theft if he obtains or exercises control over the property of another by extortion and with a purpose to deprive him thereof.
- (2) As used in this section, extortion occurs when a person threatens to:
 - (a) Cause physical harm in the future to the person threatened or to any other person or to property at any time; or
 - (b) Subject the person threatened or any other person to physical confinement or restraint; or
 - (c) Engage in other conduct constituting a crime; or
 - (d) Accuse any person of a crime or expose him to hatred, contempt, or ridicule; or
 - (e) Reveal any information sought to be concealed by the person threatened; or
 - (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
 - (g) Take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
 - (h) Bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or
 - (i) Do any other act which would not in itself substantially benefit him but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

Enacted by Chapter 196, 1973 General Session

76-6-407 Theft of lost, mislaid, or mistakenly delivered property.

A person commits theft when:

- (1) He obtains property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property, without taking reasonable measures to return it to the owner; and
- (2) He has the purpose to deprive the owner of the property when he obtains the property or at any time prior to taking the measures designated in paragraph (1).

Enacted by Chapter 196, 1973 General Session

76-6-408 Receiving stolen property -- Duties of pawnbrokers, secondhand businesses, and coin dealers.

- (1) A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.
- (2) The knowledge or belief required for Subsection (1) is presumed in the case of an actor who:
 - (a) is found in possession or control of other property stolen on a separate occasion;
 - (b) has received other stolen property within the year preceding the receiving offense charged;
 - (c) is a pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property and fails to require the seller or person delivering the property to:
 - (i) certify, in writing, that he has the legal rights to sell the property;

- (ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next to his signature; and
 - (iii) provide at least one positive form of identification; or
 - (d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.
- (3) Every pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of a pawnbroker or person who fails to comply with the requirements of Subsection (2)(c) is presumed to have bought, received, or obtained the property knowing it to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.
- (4) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection (2)(c) or (2)(d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.
- (5) Subsections (2)(c), (3), and (4) do not apply to scrap metal processors as defined in Section 76-6-1402.
- (6) As used in this section:
- (a) "Dealer" means a person in the business of buying or selling goods.
 - (b) "Pawnbroker" means a person who:
 - (i) loans money on deposit of personal property, or deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledge or depositor;
 - (ii) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession and who sells the unredeemed pledges; or
 - (iii) receives personal property in exchange for money or in trade for other personal property.
 - (c) "Receives" means acquiring possession, control, or title or lending on the security of the property.

Amended by Chapter 187, 2013 General Session

76-6-409 Theft of services.

- (1) A person commits theft if he obtains services which he knows are available only for compensation by deception, threat, force, or any other means designed to avoid the due payment for them.
- (2) A person commits theft if, having control over the disposition of services of another, to which he knows he is not entitled, he diverts the services to his own benefit or to the benefit of another who he knows is not entitled to them.
- (3) In this section "services" includes, but is not limited to, labor, professional service, public utility and transportation services, restaurant, hotel, motel, tourist cabin, rooming house, and like accommodations, the supplying of equipment, tools, vehicles, or trailers for temporary use, telephone or telegraph service, steam, admission to entertainment, exhibitions, sporting events, or other events for which a charge is made.

- (4) Under this section "services" includes gas, electricity, water, sewer, or cable television services, only if the services are obtained by threat, force, or a form of deception not described in Section 76-6-409.3.
- (5) Under this section "services" includes telephone services only if the services are obtained by threat, force, or a form of deception not described in Sections 76-6-409.5 through 76-6-409.9.

Amended by Chapter 215, 1994 General Session

76-6-409.1 Devices for theft of services -- Seizure and destruction -- Civil actions for damages.

- (1) A person may not knowingly:
 - (a) make or possess any instrument, apparatus, equipment, or device for the use of, or for the purpose of, committing or attempting to commit theft under Section 76-6-409 or 76-6-409.3; or
 - (b) sell, offer to sell, advertise, give, transport, or otherwise transfer to another any information, instrument, apparatus, equipment, or device, or any information, plan, or instruction for obtaining, making, or assembling the same, with intent that it be used, or caused to be used, to commit or attempt to commit theft under Section 76-6-409 or 76-6-409.3.
- (2)
 - (a) Any information, instrument, apparatus, equipment, or device, or information, plan, or instruction referred to in Subsection (1) may be seized pursuant to a court order, lawful search and seizure, lawful arrest, or other lawful process.
 - (b) Upon the conviction of any person for a violation of any provision of this section, any information, instrument, apparatus, equipment, device, plan, or instruction shall be destroyed as contraband by the sheriff of the county in which the person was convicted.
- (3) A person who violates any provision of Subsection (1) or (2) is guilty of a class A misdemeanor.
- (4) Criminal prosecutions under this section do not affect any person's right of civil action for redress for damages suffered as a result of any violation of this section.

Amended by Chapter 38, 1987 General Session

76-6-409.3 Theft of utility or cable television services -- Restitution -- Civil action for damages.

- (1) As used in this section:
 - (a) "Cable television service" means any audio, video, or data service provided by a cable television company over its cable system facilities for payment, but does not include the use of a satellite dish or antenna.
 - (b) "Owner" includes any part-owner, joint owner, tenant in common, joint tenant, or tenant by the entirety of the whole or a part of any building and the property on which it is located.
 - (c) "Person" means any individual, firm, partnership, corporation, company, association, or other legal entity.
 - (d) "Tenant or occupant" includes any person, including the owner, who occupies the whole or part of any building, whether alone or with others.
 - (e) "Utility" means any public utility, municipally-owned utility, or cooperative utility which provides electricity, gas, water, or sewer, or any combination of them, for sale to consumers.
- (2) A person is guilty of theft of a utility or cable television service if the person commits any prohibited acts which make gas, electricity, water, sewer, or cable television available to a tenant or occupant, including himself, with intent to avoid due payment to the utility or cable

television company. Any person aiding and abetting in these prohibited acts is a party to the offense under Section 76-2-202. Prohibited acts include:

- (a) connecting any tube, pipe, wire, cable, or other instrument with any meter, device, or other instrument used for conducting gas, electricity, water, sewer, or cable television in a manner as permits the use of the gas, electricity, water, sewer, or cable television without its passing through a meter or other instrument recording the usage for billing;
 - (b) altering, injuring, or preventing the normal action of a meter, valve, stopcock, or other instrument used for measuring quantities of gas, electricity, water, or sewer service, or making or maintaining any modification or alteration to any device installed with the authorization of a cable television company for the purpose of intercepting or receiving any program or other service carried by the company which the person is not authorized by the company to receive;
 - (c) reconnecting gas, electricity, water, sewer, or cable television connections or otherwise restoring service when one or more of those utilities or cable service have been lawfully disconnected or turned off by the provider of the utility or cable service;
 - (d) intentionally breaking, defacing, or causing to be broken or defaced any seal, locking device, or other part of a metering device for recording usage of gas, electricity, water, or sewer service, or a security system for the recording device, or a cable television control device;
 - (e) removing a metering device designed to measure quantities of gas, electricity, water, or sewer service;
 - (f) transferring from one location to another a metering device for measuring quantities of public utility services of gas, electricity, water, or sewer service;
 - (g) changing the indicated consumption, jamming the measuring device, bypassing the meter or measuring device with a jumper so that it does not indicate use or registers use incorrectly, or otherwise obtaining quantities of gas, electricity, water, or sewer service from the utility without their passing through a metering device for measuring quantities of consumption for billing purposes;
 - (h) using a metering device belonging to the utility that has not been assigned to the location and installed by the utility;
 - (i) fabricating or using a device to pick or otherwise tamper with the locks used to deter utility service diversion, meter tampering, meter thefts, and unauthorized cable television service;
 - (j) assisting or instructing any person in obtaining or attempting to obtain any cable television service without payment of all lawful compensation to the company providing the service;
 - (k) making or maintaining a connection or connections, whether physical, electrical, mechanical, acoustical, or by other means, with any cables, wires, components, or other devices used for the distribution of cable television services without authority from the cable television company; or
 - (l) possessing without authority any device or printed circuit board designed in whole or in part to receive any cable television programming or services offered for sale over a cable television system with the intent that the device or printed circuit be used for the reception of the cable television company's services without payment. For purposes of this subsection, device or printed circuit board does not include the use of a satellite dish or antenna.
- (3) The presence on property in the possession of a person of any device or alteration which permits the diversion or use of utility or cable service to avoid the registration of the use by or on a meter installed by the utility or to otherwise avoid the recording of use of the service for payment or otherwise avoid payment gives rise to an inference that the person in possession of the property installed the device or caused the alteration if:

- (a) the presence of the device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for utility or cable television service; and
 - (b) the person charged has received the direct benefit of the reduction of the cost of the utility or cable television service.
- (4) A person who violates this section is guilty of the offense of theft of utility or cable television service.
- (a) In the case of theft of utility services, if the value of the gas, electricity, water, or sewer service:
 - (i) is less than \$500, the offense is a class B misdemeanor;
 - (ii) is or exceeds \$500 but is not more than \$1,500, the offense is a class A misdemeanor;
 - (iii) is or exceeds \$1,500 but is not more than \$5,000, the offense is a third degree felony; and
 - (iv) is or exceeds \$5,000 or if the offender has previously been convicted of a violation of this section, the offense is a second degree felony.
 - (b) In the case of theft of cable television services, the penalties are prescribed in Section 76-6-412.
- (5) A person who violates this section shall make restitution to the utility or cable television company for the value of the gas, electricity, water, sewer, or cable television service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, disconnection, reconnection, service calls, employee time, and equipment use.
- (6) Criminal prosecution under this section does not affect the right of a utility or cable television company to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.
- (7) This section does not abridge or alter any other right, action, or remedy otherwise available to a utility or cable television company.

Amended by Chapter 193, 2010 General Session

76-6-409.5 Definitions.

As used in this section and Sections 76-6-409.6 through 76-6-409.10:

- (1) "Access device" means any telecommunication device including the telephone calling card number, electronic serial number, account number, mobile identification number, or personal identification number that can be used to obtain telephone service.
- (2) "Clone cellular telephone" or "counterfeit cellular telephone" means a cellular telephone whose electronic serial number has been altered from the electronic serial number that was programmed in the telephone by the manufacturer by someone other than the manufacturer.
- (3) "Cloning paraphernalia" means materials that, when possessed in combination, are capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the cloned telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.
- (4) "Electronic serial number" means the unique number that:
 - (a) was programmed into a cellular telephone by its manufacturer;
 - (b) is transmitted by the cellular telephone; and
 - (c) is used by cellular telephone providers to validate radio transmissions to the system as having been made by an authorized device.

- (5) "EPROM" or "Erasable programmable read-only memory" means an integrated circuit memory that can be programmed from an external source and erased, for reprogramming, by exposure to ultraviolet light.
- (6) "Intercept" means to electronically capture, record, reveal, or otherwise access, the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver, by means of any instrument, device or equipment.
- (7) "Manufacture of an unlawful telecommunication device" means to produce or assemble an unlawful telecommunication device, or to modify, alter, program, or reprogram a telecommunication device to be capable of acquiring or facilitating the acquisition of telecommunication service without the consent of the telecommunication service provider.
- (8) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.
- (9) "Possess" means to have physical possession or otherwise to exercise control over tangible property.
- (10) "Sell" means to offer to, agree to offer to, or to sell, exchange, give, or dispose of an unlawful telecommunications device to another.
- (11) "Telecommunication device" means:
 - (a) any type of instrument, device, machine, or equipment which is capable of transmitting or receiving telephonic, electronic, or radio communications; or
 - (b) any part of an instrument, device, machine, or equipment, or other computer circuit, computer chip, electronic mechanism, or other component, which is capable of facilitating the transmission or reception of telephonic or electronic communications within the radio spectrum allocated to cellular radio telephony.
- (12) "Telecommunication service" includes any service provided for a charge or compensation to facilitate the origination, transmission, emission, or reception of signs, signals, writings, images, and sounds or intelligence of any nature by telephone, including cellular telephones, wire, radio, television optical or other electromagnetic system.
- (13) "Telecommunication service provider" means any person or entity providing telecommunication service including a cellular telephone or paging company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunication service.
- (14) "Unlawful telecommunication device" means any telecommunication device that is capable of, or has been altered, modified, programmed, or reprogrammed, alone or in conjunction with another access device, so as to be capable of, acquiring or facilitating the acquisition of a telecommunication service without the consent of the telecommunication service provider. Unlawful devices include tumbler phones, counterfeit phones, tumbler microchips, counterfeit microchips, and other instruments capable of disguising their identity or location or of gaining access to a communications system operated by a telecommunication service provider.

Amended by Chapter 78, 1997 General Session

76-6-409.6 Use of telecommunication device to avoid lawful charge for service -- Penalty.

- (1) Any person who uses a telecommunication device with the intent to avoid the payment of any lawful charge for telecommunication service or with the knowledge that it was to avoid the payment of any lawful charge for telecommunication service is guilty of:
 - (a) a class B misdemeanor, if the value of the telecommunication service is less than \$300 or cannot be ascertained;

- (b) a class A misdemeanor, if the value of the telecommunication service charge is or exceeds \$300 but is not more than \$1,000;
- (c) a third degree felony, if the value of the telecommunication service is or exceeds \$1,000 but is not more than \$5,000;
- (d) a second degree felony, if:
 - (i) the value of the telecommunication service is or exceeds \$5,000; or
 - (ii) the cloned cellular telephone was used to facilitate the commission of a felony.
- (2) Any person who has been convicted previously of an offense under this section is guilty of a second degree felony upon a second conviction and any subsequent conviction.

Amended by Chapter 78, 1997 General Session

76-6-409.7 Possession of any unlawful telecommunication device -- Penalty.

- (1) Any person who knowingly possesses an unlawful telecommunication device is guilty of a class B misdemeanor.
- (2) Any person who knowingly possesses five or more unlawful telecommunication devices in the same criminal episode is guilty of a third degree felony.
- (3) Any person is guilty of a second degree felony who:
 - (a) knowingly and unlawfully possesses an instrument capable of intercepting electronic serial number and mobile identification number combinations under circumstances evidencing an intent to clone; or
 - (b) knowingly and unlawfully possesses cloning paraphernalia under circumstances evidencing an intent to clone.

Amended by Chapter 78, 1997 General Session

76-6-409.8 Sale of an unlawful telecommunication device -- Penalty.

- (1) Any person is guilty of a third degree felony who intentionally sells an unlawful telecommunication device or material, including hardware, data, computer software, or other information or equipment, knowing that the purchaser or a third person intends to use such material in the manufacture of an unlawful telecommunication device.
- (2) If the offense under this section involves the intentional sale of five or more unlawful telecommunication devices within a six-month period, the person committing the offense is guilty of a second degree felony.

Amended by Chapter 78, 1997 General Session

76-6-409.9 Manufacture of an unlawful telecommunication device -- Penalty.

- (1) Any person who intentionally manufactures an unlawful telecommunication device is guilty of a third degree felony.
- (2) If the offense under this section involves the intentional manufacture of five or more unlawful telecommunication devices within a six-month period, the person committing the offense is guilty of a second degree felony.

Amended by Chapter 78, 1997 General Session

76-6-409.10 Payment of restitution -- Civil action -- Other remedies retained.

- (1) A person who violates Sections 76-6-409.5 through 76-6-409.9 shall make restitution to the telecommunication service provider for the value of the telecommunication service consumed in violation of this section plus all reasonable expenses and costs incurred on account of the violation of this section. Reasonable expenses and costs include expenses and costs for investigation, service calls, employee time, and equipment use.
- (2) Criminal prosecution under this section does not affect the right of a telecommunication service provider to bring a civil action for redress for damages suffered as a result of the commission of any of the acts prohibited by this section.
- (3) This section does not abridge or alter any other right, action, or remedy otherwise available to a telecommunication service provider.

Amended by Chapter 79, 1996 General Session

76-6-410 Theft by person having custody of property pursuant to repair or rental agreement.

A person is guilty of theft if:

- (1) Having custody of property pursuant to an agreement between himself or another and the owner thereof whereby the actor or another is to perform for compensation a specific service for the owner involving the maintenance, repair, or use of such property, he intentionally uses or operates it, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or
- (2) Having custody of any property pursuant to a rental or lease agreement where it is to be returned in a specified manner or at a specified time, intentionally fails to comply with the terms of the agreement concerning return so as to render such failure a gross deviation from the agreement.

Enacted by Chapter 196, 1973 General Session

76-6-410.5 Theft of a rental vehicle.

- (1) As used in this section:
 - (a) "Motor vehicle" means a self-propelled vehicle that is intended primarily for use and operation on the highways.
 - (b) "Rental agreement" means any written agreement stating the terms and conditions governing the use of a motor vehicle provided by a rental company.
 - (c) "Rental company" means any person or organization in the business of providing motor vehicles to the public.
 - (d) "Renter" means any person or organization obtaining the use of a motor vehicle from a rental company under the terms of a rental agreement.
- (2) A renter is guilty of theft of a rental vehicle if, without notice to and permission of the rental company, the renter knowingly fails without good cause to return the vehicle within 72 hours after the time established for the return in the rental agreement.
- (3) If the motor vehicle is not rented on a periodic tenancy basis, the rental company shall include the following information, legibly written, as part of the terms of the rental agreement:
 - (a) the date and time the motor vehicle is required to be returned; and
 - (b) the maximum penalties under state law if the motor vehicle is not returned within 72 hours from the date and time stated in compliance with Subsection (3)(a).

Enacted by Chapter 112, 2001 General Session

76-6-412 Theft -- Classification of offenses -- Action for treble damages.

- (1) Theft of property and services as provided in this chapter is punishable:
- (a) as a second degree felony if the:
 - (i) value of the property or services is or exceeds \$5,000;
 - (ii) property stolen is a firearm or an operable motor vehicle;
 - (iii) actor is armed with a dangerous weapon, as defined in Section 76-1-601, at the time of the theft; or
 - (iv) property is stolen from the person of another;
 - (b) as a third degree felony if:
 - (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
 - (ii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:
 - (A) any theft, any robbery, or any burglary with intent to commit theft;
 - (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
 - (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);
 - (iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or
 - (iv)
 - (A) the value of property or services is or exceeds \$500 but is less than \$1,500;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108;
 - (v) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and the value of the property stolen is or exceeds \$500 but is less than \$1,500; or
 - (vi) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);
 - (c) as a class A misdemeanor if:
 - (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
 - (ii)
 - (A) the value of property or services is less than \$500;
 - (B) the theft occurs on a property where the offender has committed any theft within the past five years; and
 - (C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Section 78B-3-108; or
 - (iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or
 - (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).
- (2) Any individual who violates Subsection 76-6-408(1) or Section 76-6-413, or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of

actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Amended by Chapter 255, 2014 General Session

76-6-412.5 Property damage caused in the course of committing a theft.

If a defendant who commits or attempts to commit theft as defined in Section 76-6-404 of regulated metal as defined in Section 76-6-1402 and in the course of committing or attempting to commit the theft causes damage to any person's real or personal property other than the regulated metal, the defendant is liable for restitution for all costs incurred due to the damage to the person's property.

Amended by Chapter 187, 2013 General Session

76-6-413 Release of fur-bearing animals -- Penalty -- Finding.

- (1) In any case not amounting to a felony of the second degree, any person who intentionally and without permission of the owner releases any fur-bearing animal raised for commercial purposes is guilty of a felony of the third degree.
- (2) The Legislature finds that the release of fur-bearing animals raised for commercial purposes subjects the animals to unnecessary suffering through deprivation of food and shelter and compromises their genetic integrity, thereby permanently depriving the owner of substantial value.

Enacted by Chapter 119, 1997 General Session